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-and-

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Counsel for Defendants Dynex Capital, Inc., Merit Securities Corporation, Thomas H. Potts and Stephen J. Benedetti

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

)	
IN RE DYNEX CAPITAL, INC. SECURITIES LITIGATION))	Master File No. 05-CV-1897 (HB)
)	

DECLARATION OF TERENCE J. RASMUSSEN IN FURTHER SUPPORT OF DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S SECOND AMENDED CLASS ACTION COMPLAINT

- I, Terence J. Rasmussen, hereby declare the following under penalty of perjury, pursuant to 28 U.S.C. § 1746:
- 1. I am counsel to Defendants Dynex Capital, Inc., Merit Securities Corporation,
 Thomas H. Potts and Stephen J. Benedetti in the above-captioned matter. I have been admitted

 pro hac vice to practice in the Southern District of New York in this matter and I am familiar

 with the pleadings and proceedings in this matter. I make this declaration in support of

Defendants' Motion to Dismiss Plaintiff's Second Amended Class Action Complaint.

- 2. Annexed hereto as Exhibit 33 is a true and correct copy of <u>Coble v. Broadvision</u>, <u>Inc.</u>, No. 01-01969, 2002 WL 31093589 (N.D. Cal. Sept. 11, 2002).
- 3. Annexed hereto as Exhibit 34 is a true and correct copy of <u>In re Am. Express Co. Sec. Litig.</u>, No. 02-5533, 2008 WL 4501928 (S.D.N.Y. Sept. 26, 2008).
- 4. Annexed hereto as Exhibit 35 is a true and correct copy of <u>In re JP Morgan Chase</u>

 <u>Sec. Litig.</u>, No. 02-1282, 2007 WL 950132 (S.D.N.Y. Mar. 29, 2007).
- 5. Annexed hereto as Exhibit 36 is a true and correct copy of <u>In re Optionable Sec.</u> Litig., -- F. Supp. 2d --, 2008 WL 4223662 (S.D.N.Y. Sept. 15, 2008).

I declare under penalty of perjury that the foregoing is true and correct. Executed on Nov. 5, 2008.

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CERTIFICATE OF SERVICE

I certify that on the 5th day of November, 2008, a true and accurate copy of the foregoing was sent via first-class mail to:

Joel P. Laitman Frank R. Schirripa SCHOENGOLD SPORN LAITMAN & LOMETTI, P.C. 19 Fulton Street, Suite 406 New York, NY 10038 (212) 964-0046

Counsel for Lead Plaintiff Teamsters Local 445 Freight Divisions Pension Fund

/s/ Terence J. Rasmussen